

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GREGORY MONTOYA,

Movant,

vs.

No. CV 16-00589 MV/WPL
No. CR 08-02966 MV

UNITED STATES OF AMERICA,

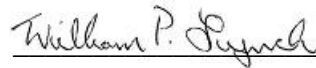
Respondent.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

Gregory Montoya filed a Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255. (CV Doc. 1; CR Doc. 50.) The United States filed a Response (CV Doc. 4; CR Doc. 51), and the United States Probation Office filed a Sentencing Memorandum (CV Doc. 7; CR Doc. 53) and a Revised Sentencing Memorandum (CR Doc. 54). It appears that Ortega is eligible for resentencing under *Johnson v. United States*, ___ U.S. ___, 135 S.Ct. 2551 (2015), and that the parties agree that resentencing is necessary. (CV Doc. 4 at 1, CR Doc. 51 at 1 (“The United States agrees that Defendant is entitled to resentencing because, under current law, he no longer has three qualifying convictions supporting an enhanced statutory sentence under the ACCA.”).)

Therefore, I recommend that the Court grant Montoya’s motion under 28 U.S.C. § 2255 and schedule a hearing for resentencing.

THE PARTIES ARE NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the Proposed Findings and Recommended Disposition. If no objections are filed, no appellate review will be allowed.**



William P. Lynch
United States Magistrate Judge